
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: SB 1354 **Hearing Date:** April 21, 2026
Author: Archuleta
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Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *The military: defense of the state*

HISTORY

Source: Author
Prior Legislation: None
Support: California Public Defenders Association
Opposition: None known

PURPOSE

The purpose of this bill is to make it a wobbler for military personnel of another state, territory or district to enter, or cause something to enter, the state to perform military duty or law enforcement functions without the permission of the Governor.

Existing federal law establishes the conditions under which state militia forces are organized, trained, equipped and funded by the federal government, and authorizing their activation for specified federal missions while remaining under state command. (32 U.S.C. §§ 101 et. seq.)

Existing federal law authorizes the federal government to activate state militia forces for specified federal missions and subsuming these forces under federal control. (10 U.S.C. §§ 10001 et. seq.)

Existing federal law provides that whenever the President of the United States is unable with the regular forces to execute the laws of the United States, the President may call into federal service members and units of the National Guard of any State in such numbers as they consider necessary to execute those. (10 U.S.C. § 12406.)

Existing law provides that the Governor is commander in chief of a militia that shall be provided by statute, and may call it forth to execute the law. (Cal. Const., art. V, § 7.)

Existing law ratifies California's participation in the Interstate Civil Defense and Disaster Compact for the purpose of providing mutual aid among the states in meeting any emergency or disaster from enemy attack or other cause, as specified. (Gov. Code, §§ 177-178.5)

Existing law ratifies California's participation in the Emergency Management Assistance Compact, the purpose of which is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, manmade disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack. (Gov. Code, §§ 179-179.9)

Existing law defines "state of war emergency" as "the condition that exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that an enemy attack is probable or imminent." (Gov. Code, § 8558, subd. (a).)

Existing law provides that any regularly employed law enforcement officer of the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety is a peace officer in this state if several specified conditions are met, including that the adjoining state employing the officer confers similar rights and authority upon a member of the California Highway Patrol who renders assistance within that state. (Pen. Code, § 830.39.)

Existing law provides that the militia of the State consists of the National Guard, State Guard and the Naval Militia – which constitute the active militia – and the unorganized militia, which consists of all persons liable to service in the militia, but not members of the National Guard, State Guard and the Naval Militia. (Mil. & Vets. Code, §§ 120-121.)

Existing law provides that the Governor of the State, by virtue of his office, is the Commander in Chief of the Militia of the State. (Mil. & Vets. Code, § 140.)

Existing law specifies that the staff of the Governor consists of the Adjutant General and such aides as the Governor designates from the personnel of the National Guard and Naval Militia to serve during his incumbency, as specified. (Mil. & Vets. Code, § 141.)

Existing law provides that the Governor may order the active militia or any portion of it to perform military duty of every description, including necessary administrative duties, in this state or any other state or territory, as specified. (Mil. & Vets. Code, § 142.)

Existing law provides that the Governor may call into active service any portion of the active militia as may be necessary, and if the number available be insufficient, the Governor may call into active service any portion of the unorganized militia as may be necessary, in any of the following events:

- In case of war, insurrection, rebellion, invasion, tumult, riot, breach of the peace, public calamity or catastrophe, as specified.
- Upon call or requisition of the President of the United States.
- Upon call of any United States marshal in California, or upon call of any officer of the United States Army commanding an army, as specified, or upon call of any officer of the United States Air Force commanding an air force, as specified.
- Upon call of the chief executive officer of any city or city and county, or of any justice of the Supreme Court, or of any judge of the superior court, or of any sheriff, setting forth that there is an unlawful or riotous assembly with intent to commit a felony, or to offer

violence to person or property, or to resist the laws of the State of California or the United States or that there has occurred a public calamity or catastrophe requiring aid to the civil authorities.

- Upon call of the sheriff setting forth that the civil power of the county is not sufficient to enable the sheriff to execute process delivered to them. (Mil. & Vets. Code, § 146.)

Existing law provides that the Adjutant General is the chief of staff to the Governor, subordinate only to the Governor and is the commander of all state military forces. (Mil. & Vets. Code, § 160.)

This bill prohibits military personnel of another state, territory, or district from entering, or causing something to enter, the state to perform military duty or law enforcement functions without the permission of the Governor.

This bill specifies that a violation of the above prohibition shall be punished by a fine of up to \$10,000, imprisonment in county jail not exceeding a year, or imprisonment pursuant to the realigned felony statute, or by both that fine and imprisonment.

This bill specifies that it does not apply to military personnel of another state, territory, or district who have been called into active federal service under Title 10 of the United States Code and who are acting under the authority of the President of the United States or the United States Secretary of Defense.

This bill provides that the Governor may delegate authority to grant permission to enter the state, as described above, to the Adjutant General.

COMMENTS

1. Need For This Bill

According to the author:

The Title 10 activation of National Guard personnel across the country this past summer drew attention to state and federal authorities governing the use of National Guard in domestic situations. While Governors do not have command and control over their National Guards or other Military Forces in a Title 10 (Federal Active Duty) status, they do retain command and control over their National Guards in the traditional Title 32 Status and for state emergency activations. This legislation protects state sovereignty by ensuring that military personnel from other states only enter California for appropriate missions and training. Other states' military forces should not be used to enforce federal law in California unless activated under the correct federal authority.

2. Recent National Guard Deployments

Since his return to office in 2025, President Trump has taken extraordinary steps toward effectuating his large-scale anti-immigration agenda, including the domestic deployment of Army National Guard troops to protect federal personnel and property. One of the first of such deployments occurred on June 7, 2025, when 2,000 members of the California National Guard, later joined by 700 United States Marines, were deployed to Los Angeles to secure federal

buildings in the wake of protests against Immigration and Customs Enforcement (ICE) operations. Bypassing the authority of Governor Newsom, President Trump ultimately deployed a total of 4,000 California National Guard troops to Los Angeles, which, given the relatively low levels of violence and unrest, appeared less concerned with restoring order and primarily geared toward fueling a cycle of confrontation and lending credence to a narrative that the city was engulfed in chaos.¹ After a tense legal dispute between the State of California and the Trump Administration, in December 2025, the federal government ultimately withdrew its legal effort to block a lower court order permanently ending the federalization of the California National Guard.²

Beyond deploying a state's national guard to support federal operations within its own territorial boundaries, President Trump has on many occasions invoked specific federal law authorizing him to federalize National Guard units from one state and deploy them into another, often over the explicit objections of the target state's governor.³ For instance, in September 2025, the President deployed 400 federalized members of the Texas and California National Guards to protect a federal building in Oregon, a move that was immediately challenged in federal court by both Oregon and California. Within days, a judge of the United States District Court for the District of Oregon issued a sweeping order enjoining the President from deploying any National Guard forces – whether from California, Texas, or any other state or the District of Columbia – into Oregon.⁴ The day this order was issued, Secretary of Defense Pete Hegseth invoked the same federal authority used in Oregon to federalize 300 members of the Illinois National Guard over the objection of that state's governor, as well as another 400 Texas National Guard soldiers for the purposes of deploying these troops into Chicago in support of immigration operations. Once again, a federal court enjoined the deployment, ruling that the President improperly invoked his authority to press the National Guard into federal services under certain conditions.⁵

Ultimately, the U.S. Supreme Court granted certiorari in the Illinois case, where it addressed the meaning of the term “regular forces” as it is used in section 12406(3) of Title 10 of the United States Code, the law that the President invoked in both the Oregon and Illinois cases and which allows the President to federalize the National Guard when they are “unable with the regular forces to execute the laws of the United States.” In a 6-3 decision, the Court concluded that:

The term “regular forces” in §12406(3) likely refers to the regular forces of the United States military. This interpretation means that to call the Guard into active federal service under §12406(3), the President must be “unable” with the regular military “to execute the laws of the United States.” Because the statute requires an assessment of the military's ability to execute the laws, it likely applies only

¹ “Trump Jumps at the Chance for a Confrontation in California Over Immigration.” *New York Times*. 8 June 2025. <https://www.nytimes.com/2025/06/08/us/politics/trump-california-immigration.html>

² “Attorney General Bonta Marks Major Litigation Victory as Trump Administration Backs Away from Its Efforts to Federalize and Deploy California National Guard.” *Office of Attorney General Rob Bonta*. 31 December 2025. <https://oag.ca.gov/news/press-releases/attorney-general-bonta-marks-major-litigation-victory-trump-administration-backs>

³ 10 U.S.C. § 12406 authorizes the President to call members of the national guard into federal service to repel invasions, suppress rebellions, or to enforce federal laws when regular forces are insufficient. However, it is well established that generally, “National Guard members serve solely as members of the State militia under the command of a state Governor.” *Stirling v. Minasian*, 955 F.3d 795, 799 (9th Cir. 2020)

⁴ *State of Oregon et al v. Trump et al*, Case No: 3:25-cv-1756-IM, filed 5 October 2025. <https://www.doj.state.or.us/wp-content/uploads/2025/10/TempRestrainingOrder.pdf>

⁵ “Chicago judge temporarily blocks National Guard deployment in Illinois.” *JURISTnews*. 10 October 2025. <https://www.jurist.org/news/2025/10/chicago-judge-temporarily-blocks-national-guard-deployment-in-illinois/>

where the military could legally execute the laws. Such circumstances are exceptional: Under the Posse Comitatus Act, the military is prohibited from “execut[ing] the laws” “except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.” 18 U. S. C. §1385. So before the President can federalize the Guard under §12406(3), he likely must have statutory or constitutional authority to execute the laws with the regular military and must be “unable” with those forces to perform that function.⁶

3. Effect of This Bill

Under existing federal law, members of a state’s National Guard receive orders under one of two legal frameworks: Title 32 or Title 10 of the United States Code. The official website of the Uniform Code of Military Justice describes the distinction between these types of orders as follows:

Title 10 orders are issued under the authority of the president and involve federal active-duty military service. This means that when a National Guard member is activated under Title 10 U.S.C., they are directed by the president to report for federal active-duty military service. These orders typically involve overseas mobilizations and have a focus on national defense. On the other hand, Title 32 orders are authorized by a state’s governor and involve active duty under state control, with pay and benefits provided by the federal government. Activation under Title 32 U.S.C. means that the National Guard member performs active duty under state control but receives pay and benefits from the federal government. These orders are often used for natural disasters and state-level missions.⁷

Outside of these federal frameworks, members of the National guard may be ordered to active duty solely by the governor of their state for State Active Duty, which typically occurs in response to state-level disasters or emergencies, and may involve Guard members acting in a law enforcement capacity. California law authorizes the Governor – who is designated the Commander in Chief of the militia of the state – to “order the active militia or any portion of it to perform military duty of every description, including necessary administrative duties.”⁸

This bill expressly prohibits military personnel of another state, territory, or district from entering, or causing something to enter, the State of California to perform military duty or law enforcement functions without the permission of the Governor. However, this prohibition does not apply to such military personnel who have been activated under Title 10 and are acting under the authority of the President or the Secretary of Defense. A violation of the prohibition is a wobbler, punishable by a fine of up to \$10,000, or by imprisonment in county for up to a year or pursuant to the realigned felony statute, or by both the fine and imprisonment. Finally, the bill permits the Governor to delegate authority to grant permission to enter the state to the Adjutant General.

⁶ *Donald J. Trump, President of the United States, et al v. Illinois, et. al* (2025) 607 U.S. ____.

⁷ “Title 10 vs Title 32 Orders – What is the Difference?” *Uniform Code of Military Justice*. <https://ucmj.us/title-10-vs-title-32-orders-what-is-the-difference/>

⁸ Mil. & Vets. Code, §§ 140, 142.

According to the author, this bill is necessary because “California has no clear law prohibiting outside military personnel from entering the state without the Governor’s explicit permission” while “numerous other states already have similar provisions addressing this issue.” Indeed, at least seven other states (Texas, Kansas, Maryland, Oklahoma, Idaho, North Dakota, and Washington) have enacted such laws, all of which are nearly identical, with slight variations. Washington’s statute is a fair representation of the operative language in these statutes:

No armed military force from another state, territory, or district is permitted to enter the state of Washington for the purpose of doing military duty therein, without the permission of the governor, unless such force has been called into active service of the United States, and is acting under authority of the president of the United States.⁹

Present in none of these laws is a criminal penalty for the proscribed conduct like the one included in this bill. Indeed, it is unclear how, as a practical matter, such a criminal penalty would be enforced: if the New York Army National Guard, for instance, was ordered to perform military duty in California, would local law enforcement be required to arrest and book Guard members as they entered the state? Relatedly, is such a penalty appropriate when National Guard members in such a situation would just be following orders? The author and Committee may wish to consider the broader ramifications of such a criminal penalty and whether it is even necessary given the language of other state laws enacting similar prohibitions.

4. Argument in Support

According to the California Public Defenders:

SB 1354 would make it a crime for military personnel from another state, territory, or district to enter California to perform military or law enforcement functions without the express permission of the Governor. As public defenders, we have long witnessed how unauthorized and overly aggressive law enforcement actions—particularly those involving militarized tactics and racial profiling—inflict deep and lasting harm on our clients and communities. SB 1354 is a critical safeguard affirming that California will not tolerate unlawful or uncoordinated incursions by outside state or federal forces that threaten our residents’ constitutional rights, safety, and peace of mind.

The bill’s clear prohibition on out-of-state, unapproved military activity reinforces the Governor’s constitutional authority as Commander in Chief of the state militia and ensures California retains control over any armed or law enforcement operations conducted within its borders. This measure helps prevent the misuse of military power in civilian contexts by the Immigration and Customs Enforcement—especially against communities that already experience disproportionate policing and surveillance.

By establishing meaningful penalties for violations, SB 1354 sends a firm message that Californians value accountability, transparency, and respect for state sovereignty. It aligns with our state’s longstanding commitment to due process, equal protection, and community safety built on trust rather than intimidation.

-- END --

⁹ RCW § 38.08.110, <https://app.leg.wa.gov/RCW/default.aspx?cite=38.08.110>